IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 17066 of 2003

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRABHATBHAI KESARBHAI ZANKAR

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

1. Special Civil Application No. 17066 of 2003

MR PJ KANABAR for the Petitioner

MS MAYA S DESAI for the Respondent

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 07/04/2004

ORAL JUDGEMENT

Heard the learned advocates.

RULE returnable today. Learned advocate Ms.Desai

waives service of rule.

The petitioner - defendant challenges the order dated 6th October, 2003 made by the learned Civil Judge (J.D.), Kodinar below application Ex.34 in Special Civil Suit No.103/2000.

It appears that the aforesaid Civil Suit No.103/2000 has been instituted by the respondent Gujarat Electricity Board for recovery of money. In the said suit the plaintiff examined one Shri Jigar Govindji Patel on 9th April, 2001. However, the defendant did not cross-examine the said officer. The application for adjournment made by the defendant was rejected. Since then, after more than two years the petitioner moved the above referred application Ex.34 for permission to cross-examine the said witness Shri Jigar Govindji Patel. The same has been rejected by impugned order dated 6th October, 2003.

On the facts and in the circumstances of the case the impugned order dated 6th October, 2003 is quashed and set aside. The witness Shri Jigar Govindji Patel be permitted to be cross-examined by the defendant on condition that the defendant shall pay to the plaintiff cost of Rs.5,000=00. The said amount of cost shall be deposited in the trial Court on or before 30th April, 2004. The defendant shall cross-examine the said witness on the date that may be fixed by the Court. In no circumstances the defendant shall ask for adjournment on the date the witness is present for such cross-examination. In the event the defendant fails to cross-examine the said witness on such date, the defendant's right to cross-examine the said witness shall stand closed.

Subject to the above direction the petition is allowed. Rule is made absolute. Ad-interim order stands vacated. The parties shall bear their own cost.

(Ms. R.M.Doshit, J.)
/sakkaf